

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

September 18, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 18, 2003, at 12:00 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Ronald Marnell, Chair; Kerry Coulter (In @ 12:16), Vice-Chair; James Barfield; Bud Hentzen; Ray Warren; Bill Johnson (In @ 12:11); Morris K. Dunlap; Elizabeth Bishop; M.S. Mitchell; Ed Sunquist and Bob Hernandez. John W. McKay Jr. David Wells and Frank Garofalo were not present. Staff members present were: Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jamsheed Mehta, Transportation Supervisor; and Rose Simmering, Recording Secretary.

1. Wichita-Sedgwick County Metropolitan Area Transportation Planning 2003 Certification Review.

The U.S. Department of Transportation (DOT), by law, is required to review and certify the transportation planning process of metropolitan areas at least once every three years. Although the MPO provides a self-certification document each year for compliance with federal regulations, the law mandates this detailed triennial review by the federal agencies.

The Wichita Metropolitan Area is a recipient of federal funds for transportation planning and for construction of projects under various programs such as Surface Transportation (STP), Congestion Mitigation and Air Quality (CMAQ), Bridge Replacement (BR), Transportation Enhancements (TE), Paratransit (Sec 5310 and 5311), and Transit (Sec 5307). In addition, federal grant applications for special initiatives such as *Access to Jobs* and demonstration projects are transmitted through the Wichita MPO.

In order for the community to continue receiving these federal transportation funds, the metropolitan planning process must continue to be certified by the US DOT and meet the expectations laid out in the federal regulations.

As part of a three-day review process, officials from the US DOT will visit with the MPO (MAPC) members to discuss important issues on Thursday, September 18, 2003. You can expect discussions to include but not be limited to the following special focus items:

- Project selection and prioritization process;
- Public Involvement;
- MPO Board representation;
- Staffing levels of the MAPD;
- Carry-over of planning grant (UPWP) balances;
- End-of-year obligation authority (TIP) balances;

Attachments (For Information Only):

1. Federal Law (23 CFR 450 C) regarding Metropolitan Transportation Planning and Programming
2. List of questions that US DOT officials will discuss with MAPD Staff over the three-day review process.

JAMSHEED METHA, Planning staff – Wichita Sedgwick County Metropolitan Area Transportation Planning 2003 Certification Review. This is an informal workshop/orientation and presentation meeting.

BYRON E. LOW, U.S. Department of Transportation Federal Highway Administration Kansas Division – Topeka, KS. I want to introduce participants. This is a team effort and a partnership with MAPD even though we are required to do a tri-annual review and certify that Wichita has an open and progressive planning process, we are here more not as a regulatory as much as trying to provide assistance and identify issues that we can help the Wichita planning area accomplish.

The MPO Planning boundary and the board representation that has been an issue and I think Jamsheed has talked to you about that. I would like to talk about the following issues: Project selection and prioritization process, Public Involvement, MPO Board representation; Staffing levels of the MAPD, Carry-over of planning grant (UPWP) balances; End-of-year obligation authority (TIP) balances;

This afternoon there will be a public open house meeting on the first floor but we are required by regulation that we have an opportunity for the public to come in and ask questions about the planning process and discuss the issues.

One thing we noticed there is a lot of work activities going on and recently Alan Morrison left and we feel that the staff positions need to be looked and the work load that Jamsheed has and the people available to do the work that he has to do. Maybe some of the staff vacancies that are on the budgeted positions that he has. Currently he has 3 planners including himself and there are budgeted position for a total of 6 in the transportation division. Some of the things that are upcoming is the update of the long-range plan and there are a number of congressional ear-marked projects that Wichita has received I think through Rep Tiahrt and some other members and one in particular is the South Area Transportation study. I know the money has been obligated for this project, however there hasn't been any work being done on that. One of the concerns that we have is that when we revisit projects that have been obligated but no work been done there is always the possibility of losing the money. We never know what Congress may happen to do within the next 6 months.

We also talked about the carry over of the UPWP balances and that often times has \$550,000 a year and that is to do the Transportation planning and pay for staff members. The last several years there has been what we consider a significant carry-over

balance and these balances could be used to help pay for some of these vacant position that he currently has on work activities that are not being done and need done in the near future.

We talked about air quality issues and the main reason we talked about that there is on the horizon of re-designation of Wichita into an non-attainment area which could have an impact on a way of doing business for project selection right now. Staff is doing a good job on this and spending the CMAQ money that they get to reduce possible Ozone containments. By next April 2004 or so EPA is suppose to make a designation/determination of whether Wichita is non-attainment and that is based on Ozone readings from the last several years.

We talked about the public involvement plan but there are some commitments to implement this plan, and it would require additional staff to get the work done or fill the positions he has vacant. We talked about the railroad issues and studies that are proposed.

When we get the report done there will be an opportunity for us to come back and make a presentation of the findings to the Board.

HERNANDEZ What is your involvement in putting this publication together?

LOW Yes, that is a Capacity Building Folder and pamphlet.

HERNANDEZ I am curious about the Smart Growth here on page 29, you have a set of policy and programs set to protect and preserve etc. how long has this Smart Growth been in place?

JONI ROESELER, U.S. Department of Transportation Federal Transit Administration, Director of Planning and Program Development, It is something that we have collected information on from across the country. The whole Smart Growth is looking at the best way and most economical way to merge infrastructures and transportation systems is the essence of Smart Growth.

LOW There is somewhat of an underling theme you can call it Smart Growth, you could call it Land Use.

HERNANDEZ Who is the Smart Growth expert here in Wichita?

MEHTA I would not take that hat on myself but I would rely on this Board, and whatever smartness there might be is what we reflect in our work.

JOHN H. WEISS, U.S. Department of Transportation Federal Transit Administration Program Manager, We have talked about Derby that use to receive (5311) funds and talked about how they will no longer receive those funds and how their operations would be affected. They will be eligible for (5307) funding so they will still have an opportunity to get some project funding through that process.

MARNELL All those number and names are familiar to you but not to us if you are going to use them or describe them could you tell us what they are?

WEISS Cities under 50,000 can receive what they call (5311) funding and they can use that for operating assistance and capital.

ROESELER It is a formal program to assist Transit.

MARNELL So Derby changed population?

WEISS Right, Derby has been incorporated into the Wichita MPO area so therefore they will no longer be able to receive (5311) funding.

MITCHELL What are the sources of funding for the programs that you are proposing and which we are to enact a plan?

WEISS On the (5307) that is a formula type funding and it is based on population and then there are other types of funding that they can receive earmarked type funding what they call (5309) and then we have (5303) funds which are the planning funds that we have been talking about along with the FHWA planning funding.

MITCHELL What is the source of revenue for those funds?

ROESELER The gas tax, general funding, and job access program, it is a combination.

MITCHELL Can you give me an approximate breakdown of the relative importance of the gas tax, versus general revenue, versus job access?

ROESELER Gas tax we are at about 4 cents of gas tax and the rest is general fund.

BISHOP I know this is federal money that is filtered in essence from KDOT for the most part and did I understand with Derby's previous population size they were eligible to receive funding directly from KDOT and now they go through the MPO or did I misunderstand that?

WEISS The (5307) funding has grown because we have more population that has been drawn into the boundary so that pot will increase where the (5311) funding will no longer be there for those.

BISHOP And the (5311) was directly to KDOT?

ROESELER The urbanized area formula program FDA the grant money itself goes directly from FDA to the grant to ... Wichita Transit...

MEHTA Let me add (5311) is a category of funds for what we will call (rural) outside of the urbanized area boundary and Derby used to be that before the last census came out. It is the Paratransit providers who were recipients of funds that would be administered by a group called the Paratransit Counsel which in turn reports to another group called a Coordinated Transit District number 12 made up of 3 counties, Harvey, Butler, and Sedgwick. There might be 15-20 providers and each of them participate in that Paratransit Counsel meeting and then at the end of the year make applications for handicapped accessible vans, the examples could be Alzheimer Association or the Red Cross, KETCH, United Way those kinds of groups.

With this new census the City of Derby as with so many other communities and including the City of Andover they got covered into the new urbanized area and those original funds (5311) can not now be used for properties inside the urbanized area. So all those Paratransit providers are going to apply for another category of funds (5307) and the City of Wichita's Wichita Transit Division is already a recipient of it and it is the sole recipient of those funds because they are designated by FTA as the Transit Authority for the area. There are some additional funds coming into that because the area grew in population and size but not enough to cover all the needs of the Derby and the various other areas that got covered into it, so they are going to make up that difference by another grant by the State. The State is willing to pay the difference so eventually all the providers who are serving those small cities, previously the rural areas and now in the urban area, they will get approximately the same level of funding as they did before and so an invisible transition in that sense only because the State and the smaller cities along with Wichita Transit are making it happen by agreeing to share the funds as they are going to be received now.

ROESELER It is the whole MPO Planning process where the decision is made on how the (5307) or the urbanized area formula funds will be distributed and in the past Wichita Transit

MEHTA So ultimately if there is failure on the part of for example Wichita Transit to share those funds with the other new communities coming into the urbanized area then this body is going to probably be put into that situation in deciding what's the best policy to go about it. Right now there are interesting things that have happened - they have already begun working with the administrators of all the cities and people in Butler county as well so that they are all in agreement with what is the way to do from now on because this is happening for the first time this year, if there is a problem and that system doesn't work then they will come to you and ask you for direction.

WARREN Other than the fact that communities like Derby will automatically transition into the MPO now and coming under (5307) or than (5311) couldn't I assume that is advantageous to them to be under the MPO (5307) as opposed to where they were?

MEHTA It depends, it might have been a smooth process earlier on because there is an established ParaTransit Counsel this is only relating to a certain mode of transportation. This is not the highway, streets and bridges that would be continuing the way it used to be because your planning area boundaries used to be all of Sedgwick County and now it is going to be all of Sedgwick County, plus Andover, Butler County, and little bit of Sumner County. So Derby was always in it as were all the other small cities.

WARREN Will it be advantageous to them to have this transition?

MEHTA May or may not. It is for them to see how efficient is the process this has not happened yet we have yet to go through the pains of deciding and agreeing to what are the shares of the other small communities. What I can say is at this point we just found out yesterday because the manager of Wichita Transit he is orchestrating meetings where they are going to identify what were the previous funding levels so that any other provider of transit will get approximately as much as he had a chance early on using different funding sources not just relying on federal funds because federal funds got cut off for on category they make it up by coordinating with the State.

ROESELER Early on we got some letters from the communities who are very concerned about the future and about what will happen. The eligibility goes with the year of the funds so carry-over funds they can continue to spend those funds as long as they are available.

MITCHELL Jamsheed what is the time frame are we talking about where the MPO might have to make the decision?

MEHTA It may come up at the TIP. If by that time the community probably three months from now we are planning on updating the TIP document again and that will come to you by December.

MARNELL Would ambulance service qualify under this type of transportation service?

ROESELER Non Emergency service.

ED J. CHRISTOPHER, Federal Highway Administration Midwestern Resource Center, I have some questions for you. It looks like there are some very new members on the MPO and I want to make sure staff provided you with orientation and briefing?

HERNANDEZ Yes, they did give us orientation sessions and lot of materials.

MITCHELL I am a new member but I had also been on the Board of Park Commissioners and was familiar to some extent with what Jamsheed's program is.

CHRISTOPHER The basis of the re-certification process in 1990 Congress changed the process and wanted more citizens participation with joint planning regulations one form for Federal certification review every three years.

BISHOP I am not brand new on the Commission, I have felt the Transportation staff has always made themselves available and are skilled as much as possible and they have provided presentations to the citizens and they have done easy to understand Powerpoint presentation.

CHRISTOPHER Is staff providing MPO enough information so you can make informed decisions?

DUNLAP Is this your first certification in Wichita?

ROESELER We have been doing this since the 70's even though there is no formal requirement for re-certification basis we continue as a Planning Management Review.

DUNLAP I am new on the Commission, the second time, and I have been back now three or four months, and previously we were patted on the hand, and on the head and now we are brought into the process more.

CHRISTOPHER The spirit of the process and it is coming out of ISTEA and TEA -21 if was that whole notion to get you engaged in the process.

WEISS Formal certification reviews we did one in September 2000 and in 1997 it was a Peer exchange and in 1994 as far as formal certification review.

DUNLAP I have a question of K-DOT. It feels like it takes KDOT a long time to reach a decision and get that information to us and we are trying to doing zoning planning and future planning and we don't know what KDOT is doing and maybe you don't have one. Like our Northwest Bypass we also have a Southeast Bypass somewhere in the future.

THOMAS DOW, KDOT: KDOT has had a several public meetings and there will be more in the near future.

DUNLAP Where are you going to put it? But understand how it is to sit here and say we need a new sewage plant northwest of town and if we go out and site it and you put the highway next to it that maybe alright but if you move the highway two miles away you may have just shut off the pipe we intended to use. I am saying please get us as much information as you can on future plans.

THOMAS DOW, KDOT I think sometimes we are dealing with complex projects and it takes a long time to set the line.

MEHTA We are talking more about the process today than NW Bypass project. For the Northwest Bypass, there are two studies, the first one lasted about two years and was concluded three years ago it is called the Major Investment Study. All that did was identify that there is a need and drew a thick band and that band we adopted in the MPO Transportation Plan in March of 2000. The study that is now kicked off does not have any Federal funding in it. It is a system enhancement application, which means State monies and 1 1/2 million from each City of Wichita and Sedgwick County; of course there are more players in it Goddard, The City of Maize, and Colwich and others. That study has been around for a year or half now and this will be the second or third public open house meeting coming up next week in the Colwich area. On the South Area Transportation study, funds were secured and we had applied for federal congressional earmark funds two years ago and we got those funds approved last year and we secured those funds by putting it into your document the UPWP and that was done last year this time.

HERNANDEZ The most effective mode of information is the internet. Do you have a web sites that we could go to and look at it? On the internet with a brief synopsis of what the program is and what the status is and where you are at on these projects?

MEHTA We could do workshops on specific projects and invite staff from various departments to be here and make presentations.

THOMAS DOW, KDOT There is a web site for the Northwest Bypass.

BISHOP I have a question about the Southeast Study there maybe some concern about getting the work completed and get the money soon enough and if we are not there yet did you say 2004 or 2005?

MEHTA The federal highway administration as part of the certification is going to identify that this project be kicked off and some work be shown by Sept. 2004.

BISHOP If we are not into decision kinds of activity by the end of this month we will be next year?

MEHTA To do a Bypass or not to do that study is going to exceed one year on the public process in 2004.

BISHOP What budget year is it tied to?

MEHTA It is good for 3 years after it was initially announced by Congress. Federal Highway Administration is cautioning us that if you don't do something what if Congress, in a need to conserve funds and shift to other priorities, takes it away.

BISHOP It is called a recision and if we don't have it this year we will next year.

SUNQUIST You have staff members of three and you are budgeted for six is that a clinch in the system?

MEHTA Funding is not the issue. We have a position that has been vacant for four years. We are picky and choosy about whom we get for applicants for certain key positions. We didn't have a Planning Director for a while and then we had to freeze those positions until the new Planning Director came on board. Then one position was unfrozen as soon as John Schlegel came aboard. We just lost another planner two weeks ago. We have never been better than 80% of total staff.

MARNELL Those funds in that account can they be used for contract labor to get the work projects out?

MEHTA We have got contractals identified in the UPWP for instance the South Area Study. The two railroad corridors, which are in the process of abandoning and rail banking. The 21st Revitalization Corridors those are projects that we are going to identify and use federal funding plans that are available to us.

MARNELL I know numerous Engineering firms in town wanting something one way or the other so there should be a pool of people even if they are not available for employment at least available under contract to get the work done. Are there other people within the department that have the skill sets but maybe are accounted for under the ledger other places that could be moved over temporary for periods of time under that program and then moved back.

MEHTA It has been done in the past but I will tell you that the workload in every division is immense and each have more to do than they can handle. We are doing things the best we can but that sometimes is not good enough and it can be much better.

BARFIELD What kind of notification was sent to the general public about this meeting?

MEHTA The general public, if you are not affiliated with a Neighborhood Association or District Advisory Board and we don't have you on a mailing label list, it would be 3 notices in the Wichita Eagle and 1 in the Derby Reporter and the internet web site.

2. **Approval of MAPC meeting minutes September 4, 2003.**

MOTION: That the minutes for September 4, 2003 be approved.

JOHNSON moved, **COULTER** seconded the motion, and it carried (11-0).

3. **Consideration of Subdivision Committee Recommendations**

3-1. **SUB2003-88 – Final Plat – WICHITA CLINIC ADDITION, located on the south side of 21st Street North, east of K-96 Expressway.**

- A. The applicant shall guarantee the extension of sanitary sewer to serve the lot being platted. **The sewer main will also need to be included in the guarantee. Fees in lieu of assessment are needed to connect to water services due to the site not being included in the improvement district.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage easement is needed. A minimum pad needs to be platted. A cross-lot drainage agreement is needed with the adjoining property to the north. A drainage guarantee is required.**
- D. **Traffic Engineering and City Fire Department** need to comment on the need for additional street right-of-way along Founders Cir. A 70-ft street right-of-way width (41-ft roadway width) is needed to conform with commercial street standards. **The right-of-way width has been approved by Traffic Engineering and City Fire Department. A restrictive covenant is needed to restrict Founders Cir to No Parking. City Fire Department requests 20-ft roadway for ingress and 29-ft roadway for egress at the Founders Cir entrance.**
- E. The Applicant shall guarantee the paving of the proposed street to the business/industrial street standard. **City Engineering has requested a cross-section of the proposed street to determine paving requirements.**
- F. **Traffic Engineering** has requested contingent right turn lane along 21st Street.
- G. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- I. **GIS** needs to comment on the proposed street name change of Wawona to Founders. **The street name is approved. The signature of the owner of the residence along the east side of Wawona needs to be included on the plat.**
- J. On the Detail the distance of 10.75' needs to be changed to 29.25'.
- K. On the Notary part of Lanzrath, Mary K. Lanzrath Trust needs to be changed to Mary K. Lanzrath Revocable Trust.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- M. The signature line for the City Clerk needs to be revised to reference "Karen Schofield".
- N. The MAPC signature block needs to reference "Ronald L. Marnell, Chair".
- O. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- X. The applicant is reminded that a compact disk (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov) . This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **BISHOP** seconded the motion, and it carried (11-0).

3-2. SUB2002-128 – Revised One-Step Final Plat – THE WATERFRONT SECOND ADDITION, located on the north side of 13th Street North, east of Webb Road.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. The plat proposes two access openings along 13th Street in accordance with minimum spacing standards of the access management regulations.
- E. "13th St N" shall be correctly denoted on the plat.
- F. **Traffic Engineering** has requested a petition for a left turn lane into the full movement drive.
- G. **County Surveying** advises that the 30-ft utility easement needs located.
- H. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The signature line for the City Clerk needs to be revised to reference "Karen Schofield".

- K. The MAPC signature block needs to reference "Ronald L. Marnell, Chair".
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **BISHOP** seconded the motion, and it carried (11-0).

3-3. SUB2003-97 – One-Step Final Plat – A REPLAT OF PART OF ECK SEVENTH ADDITION, located south of Central, on the east side of 179th Street West.

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. **The lots have been approved for on-site sewerage facilities.**
- B. The site is currently located within the Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. **Petitions have been provided with the previous plat for future City water and sewer services. No new petitions will be needed.**
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- E. County Engineering needs to comment on the status of the applicant's drainage plan. **A revised drainage plan is needed reflecting new lot layouts.**
- F. The applicant shall guarantee the installation of the proposed streets to the 36-ft rock suburban street standard. **The road has been constructed and has been approved by County Public Works.**
- G. Lots 4, 5 and 6 contain less than the minimum 4.5 acres needed for lots served by sewage lagoons. A modification will need to be approved by the Planning Commission. A zoning adjustment will also need to be approved by MAPD. **A modification has been approved.**
- H. The plat's text shall state that the contingent street dedication shall become effective "upon the platting of any adjacent subdivision having a street connecting thereto."
- I. GIS needs to comment on the plat's street names. **The street name needs to be revised to "N 179th Ct W".**

- J. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed)
- K. The signature line for the City Clerk needs to be revised to reference "Karen Schofield".
- L. The MAPC signature block needs to reference "Ronald L. Marnell, Chair".
- M. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov) . This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **BISHOP** seconded the motion, and it carried (11-0).

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- 3-4. **SUB2003-99 – One-Step Final Plat – MILLS ESTATES ADDITION, located east of 167th Street West, south of 55th Street South**
- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
 - B. The site is currently located within the Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
 - C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
 - D. If any drainage will be directed onto K-42 Highway, a letter shall be provided from KDOT indicating their agreement to accept such drainage.

- E. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan has been approved. A minimum pad elevation needs to be 1391.0**
- F. **County Engineering** needs to comment on the access controls. The plat denotes complete access control along K-42 and an access easement from adjoining property. **County Engineering requests a 20-ft wide drive within a 40-ft private egress/ingress easement**
- G. **KDOT** needs to comment on the location of the off-site access opening along K-42. **The opening is approved**.
- H. A covenant shall be submitted regarding the private ingress/egress easement which sets forth ownership and maintenance responsibilities and limits the private drive to servicing no more than three residential lots.
- I. A copy of the ingress/egress easement that provides access to this site shall be provided.
- J. According to the platting binder, a pipeline easement has been granted over a portion of the area involved in this plat. Prior to this plat being scheduled for City Council review, the applicant shall either obtain a release of the easement or provide proof that the easement has been confined. If confined, any portion of this easement if on this plat shall be shown and the pipeline's name and recording information shown.
- K. Adjoining property owners should be shown on preliminary plat.
- L. **County Surveying** advises that a dimension is needed to the property corner on northeast monument at the drainage easement.
- M. Per Sedgwick County Fire Department, access drives to any structures in access of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface needs to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed.)
- N. The MAPC signature block needs to reference "John L. Schlegel, Secretary".
- O. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- P. The signature line for the City Clerk needs to be revised to reference "Karen Schofield".
- Q. The MAPC signature block needs to reference "Ronald L. Marnell, Chair".
- R. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- S. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- T. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- U. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- V. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- W. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- X. Perimeter closure computations shall be submitted with the final plat tracing.
- Y. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.

- Z. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. SBC has requested additional easements.
- AA. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **BISHOP** seconded the motion, and it carried (11-0).

3-5. DED2003-20 – Contingent Dedication of Street Right-of-Way, for property located west of West Street, south of Central.

OWNER/APPLICANT: Mennonite Housing, Andrew Bias, 2145 N. Topeka, Wichita, KS 67214

SURVEYOR/ENGINEER: Armstrong Survey, 250 Mathewson, Wichita, KS 67214

LEGAL DESCRIPTION: The north half of Lot 1, Block 7, Parkwilde Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split Case No. SUB 2003-95 for a contingent right-of-way dedication along Newell Avenue.

Planning Staff recommends that the Dedication be accepted.

MOTION: To approve, subject to staff comments and citing the findings in their report.

BARFIELD moved, **BISHOP** seconded the motion, and it carried (11-0).

4-1. VAC2003-42 – Request to Vacate Platted Access Control.

OWNER/APPLICANT: Tom Ritchie

AGENT: AM Consulting c/o Tim Austin

LEGAL DESCRIPTION: Platted access control, located on the Hydraulic Avenue of Lot 2, Block 1, The I-135 Power Center Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located northeast of the Hydraulic Avenue – I-135 interchange, 1401 Waterfront Parkway.

REASON FOR REQUEST: The applicant proposes relocation of access in association with a lot split

CURRENT ZONING: Subject property and abutting properties to its north, south and east are zoned "LI" Limited Industrial. Properties west of the site are zoned "MF-29" Multifamily Residential

The applicant proposes vacation of the current complete access control along the Hydraulic Avenue side of Lot 2, Block 1, I-135 Power Center Addition. The I-135 Power Center Addition was recorded 09-26-1994. Currently there is complete access control, except for one opening, along the Hydraulic side of Lot 2. There is a proposed lot split associated with this request to vacate access control.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the platted complete access control, as recorded on Lot 2, Block 1, I-135 Power Addition with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

- 1) That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time August 28, 2003 which was at least 20 days prior to this public hearing.
- 2) That no private rights will be injured or endangered by the vacation of the above-described portion of the platted access control and the public will suffer no loss or inconvenience thereby.
- 3) In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted access control described in the petition should be approved with conditions;

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to City Standards.

- (3) Provide a cross lot access agreement between the north property and the lot created by the lot split, with the access in alignment with Del Mar.
- (4) Dedication by separate instrument of complete access control along the remainder of the Hydraulic frontage from Del Mar to Berkeley Avenues completion of the lot split.
- (5) Dedications and the cross lot access agreement will be furnished to the Planning Staff and forwarded to WCC for final approval with the Vacation Order.
- (6) Complete the Lot Split

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to City Standards.
- (3) Provide a cross lot access agreement between the north property and the lot created by the lot split, with the access in alignment with Del Mar.
- (4) Dedication by separate instrument of complete access control along the remainder of the Hydraulic frontage from Del Mar to Berkeley Avenues completion of the lot split.
- (5) Dedications will be furnished to the Planning Staff and forwarded to WCC for final approval with the Vacation Order.
- (6) Complete the Lot Split.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **COULTER** seconded the motion, and it carried (11-0).

4-2. VAC2003-44 – Request to Vacate a Platted Access Control.

OWNER/APPLICANT: 1301 Associates LLC, c/o Leo Goseland

AGENT: Baughman Company, PA c/o Russ Ewy

LEGAL DESCRIPTION: Platted access control, located on the Webb Road side of Lot 1, Don & Marvin Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located northwest of the Harry Street – Webb Road intersection, northwest corner of Boston Street and Webb Road.

REASON FOR REQUEST: The applicant proposes one point of access off of Webb Road onto Lot 1, Don & Marvin Addition.

CURRENT ZONING: Subject property and south adjacent property are zoned "LC" Limited Commercial. Property north of the site is zoned "TF-3" Duplex Residential. Property to the east is zoned "MF-29" Multi-family Residential and property to the west of the site is zoned "MF-29" and "SF-5" Single-family Residential.

The applicant proposes vacation of the current complete access control along the Webb Road side of Lot 1, Don & Marvin Addition. There is a requested CUP amendment, CUP2003-44 concurrent to the vacation case. The Don & Marvin Addition was recorded 01-24-1995.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate the platted complete access control, as recorded on Lot 1, Don & Marvin Addition with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

- 1) That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time August 28, 2003 which was at least 20 days prior to this public hearing.
- 2) That no private rights will be injured or endangered by the vacation of the above-described portion of the platted access control and the public will suffer no loss or inconvenience thereby.
- 3) In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted access control described in the petition should be approved with conditions;

- 1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- 2) All improvements shall be according to City Standards.

- 3) The Traffic Engineer must approve the location and type of access. Any portion of the frontage left after the location of the access, will be remain as complete access control.
- 4) Condition of approval of the vacation will include approval of the CUP amendment, prior to the case going to WCC.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to City Standards.
- (3) The Traffic Engineer must approve the location and type of access. Any portion of the frontage left after the location of the access, will be remain as complete access control.
- (4) Condition of approval of the vacation will include approval of the CUP amendment, prior to the case going to WCC.

BISHOP I have a question about Item 4-2 , before this case goes to WCC, is it contingent on the CUP approval?

LONGNECKER A condition of approval of the vacation will include approval of the CUP amendment, prior to the case going to WCC.

MARNELL So this can go ahead and be approved and is only effective if the other is approved?

LONGNECKER Corret.

MOTION: To approve, subject to staff comments and citing the findings in their report.

WARREN moved, **COULTER** seconded the motion, and it carried (11-0).

5. **Case No.: CON2003-31** – Gene L. & Kay E. Woodard (owners); Westar Energy c/o Cindy Risch (applicant); Baughman Company c/o Russ Ewy (agent) Request Sedgwick County Conditional Use for a electric substation on 5 acres zoned "RR" Rural Residential on property described as;

A tract of land located in the NW 1/4 of Section 21, Township 26 South, Range 1 West in Sedgwick County, Kansas, more particularly described as follows: Beginning at the SW corner of said NW 1/4, thence North along the West line of said NW 1/4 a distance of 400 feet; thence East parallel to the South line of said NW 1/4 a distance of 550 feet; thence South parallel to the West line of said NW 1/4 a distance of 400 feet; thence West along the South line of said NW 1/4 a distance of 550 feet to the point of beginning, containing 5.05 acres. General Location One-half mile south of 53rd Street North on the east side of Tyler.

BACKGROUND: Westar Energy is requesting a Conditional Use for a major utility to permit an electrical substation to be located on the east side of Tyler, approximately ½ mile south of 53rd Street North on approximately five acres zoned "RR" Rural Residential. A major utility may be permitted with the approval of a Conditional Use in the "RR" Rural Residential zoning district.

While the application area is just over five acres in size, the equipment will be contained within a 200' x 310' compound. The remainder of the tract will be used as buffer and landscaped space, and the proposed evergreen landscaping meets the screening requirements of the Unified Zoning Code. Except for poles, the tallest equipment will be 30 feet tall. Westar indicates that the City of Maize has a growing demand for electricity, and this facility is needed to meet projected needs. The applicant indicates that the site was chosen based upon the following circumstances: 1) the land was for sale; 2) the site is near existing transmission lines; 3) the site is centrally located to the area they expect to serve and 4) there was enough land available for sale to meet project's needs (see attached documents).

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential; agriculture
SOUTH: "RR" Rural Residential; agriculture
EAST: "RR" Rural Residential; agriculture
WEST: "RR" Rural Residential; agriculture

PUBLIC SERVICES: Tyler Road is paved. No personnel are assigned to the site, with personnel visits occurring about once a month. Therefore, the facility will have minimal impact on county provided services. The approval of this request will enhance the delivery of electric service to the Maize area.

CONFORMANCE TO PLANS/POLICIES: The plan is silent regarding the siting of utilities such as the proposed electrical substation. Prudent planning principles indicate that the electrical substations should be located so they facilitate the orderly growth of the county and the communities they serve.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year and subject to the following conditions:

1. The site shall be developed and operated in general conformance with the approved site plan. All improvements shall be completed prior to the commencement of operations.
2. Screening by evergreen vegetation shall be installed within 18 months of approval of the Conditional Use and shall be continuously maintained in general conformance with a landscape plan approved by the Planning Director.
3. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding property is in agricultural use and is zoned "RR" Rural Residential. The application area is rural in character. The proposed electrical substation is compatible with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and could be used as presently zoned. However, the site is located near transmission lines and the projected customer base for the facility.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will not detrimentally impact nearby property as electrical facilities of this type are located throughout the county, and adequate screening will be provided. The request is well in advance of development providing ample time for property owners to plan accordingly.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Electrical service is used by everyone, and there is a need to adequately provide the service in the most efficient manner possible.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The plan is silent regarding the siting of utilities such as the proposed electrical substation. Prudent planning principles indicate that the electrical substations should be located so they facilitate the orderly growth of the county and the communities they serve.
6. Impact of the proposed development on community facilities: Approval of the request will improve the delivery of electrical service throughout the county.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **COULTER** seconded the motion, and it carried (11-0).

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- 6a. **Case No.: CUP2003-43 DP266 (Associated with ZON2003-42)** – KITCH Partners (owner); Slawson Commercial Properties, LLC, c/o George Sherman (contract purchaser/agent); Professional Engineering Consultants, PA, c/o Rob Hartman Request Creation of The Woodlands Community Unit Plan on property described as;

and

- 6b. **Case No.: ZON2003-42 (Associated with CUP2003-43 DP266)** - KITCH Partners (owner); Slawson Commercial Properties, LLC, c/o George Sherman (contract purchaser/agent); Professional Engineering Consultants, PA, c/o Rob Hartman Request Sedgwick County Zone change from "SF-20" Single-family Residential to "LC" Limited Commercial and "GO" General Office on property described as;

KITCH G.O. ZONING LEGAL DESCRIPTION

THE S.W. 1/4 OF THE N.E. 1/4 OF THE OF SECTION 9, TOWNSHIP 27S, RANGE 2 EAST OF THE 6TH P.M. SEDGWICK COUNTY, KANSAS; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE N.W. CORNER OF SAID S.W. 1/4 OF N.E. 1/4 SECTION 9 TOWNSHIP 27S, RANGE 2 EAST OF THE 6TH P.M.; THENCE N88 degrees 57'55"E ALONG THE NORTH LINE OF THE SAID S.W. 1/4 A DISTANCE OF 1325.27 FEET TO THE N.E. CORNER OF SAID S.W. 1/4; THENCE S00 degrees 41'52"E ALONG THE EAST LINE OF THE SAID S.W. 1/4 A DISTANCE OF 1330.07 FEET, TO THE SOUTH LINE OF SAID S.W. 1/4; THENCE S88 degrees 54'47"W ALONG SAID SOUTH LINE A DISTANCE OF 1326.86 FEET; TO THE S.W. CORNER OF SAID S.W. 1/4; THENCE N00 degrees 37'46"W ALONG THE SAID WEST LINE, A DISTANCE OF 1331.29 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 1,764,522 S.F. OR 40.51 ACRES MORE OR LESS.

KITCH L.C. ZONING LEGAL DESCRIPTION

A TRACT OF LAND IN THE EAST HALF OF THE N.E. 1/4 OF SECTION 9, TOWNSHIP 27 SOUTH, RANGE 2 EAST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE N.W. CORNER OF THE N.E. 1/4 OF THE N.E. 1/4 OF SECTION 9; THENCE N89 degrees 01'03"E ALONG THE NORTH LINE OF SAID N.E. 1/4, A DISTANCE OF 723.67 FEET; THENCE S00 degrees 45'57"E A DISTANCE OF 600.00 FEET; THENCE N89°01'03"E PARALLEL TO THE NORTH LINE OF SAID N.E. 1/4 A DISTANCE OF 600.00 FEET TO A POINT ON THE EAST LINE OF SAID N.E. 1/4, THENCE S00 degrees 45'57"E ALONG THE SAID EAST LINE OF THE N.E. 1/4 A DISTANCE OF 2057.70 FEET TO THE S.E. CORNER OF SAID N.E. 1/4; THENCE S88 degrees 54'47"W ALONG THE SOUTH LINE OF SAID N.E. 1/4 A DISTANCE OF 1326.86 FEET; TO THE WEST LINE OF THE EAST HALF OF THE SAID N.E. 1/4 THENCE N00 degrees 41'52"W ALONG THE SAID WEST LINE A DISTANCE OF 2660.14 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINING 3,163,732 SQ. FT. OR 72.63 ACRES, MORE OR LESS. Generally located: Southwest corner of 21st Street North and Greenwich Road

BACKGROUND: The applicant is requesting to create DP-266 The Woodlands Community Unit Plan, which would be a 116-acre development with 14 parcels for commercial, office and residential uses. The development is located on the southwest corner of 21st Street North and Greenwich and extends one-half mile south to the railroad right-of-way on Greenwich, one-half mile west along the railroad right-of-way, and one-fourth mile west along 21st Street North.

Approximately eight acres at the corner of 21st and Greenwich already are zoned "LC". The developer has requested "LC" Limited Commercial zoning for an additional 67 acres, including the drainage reserve and streets. Net "LC" property, excluding drainage reserve and streets, would be approximately 51 acres. "GO" was requested for 40 acres, including street. Net "GO" zoning is approximately 38 acres. Parcels 10, 11, and 13 (approximately 15 acres) are proposed for "LC" zoning but their use would be restricted to "GO" uses. This results in an even split (approximately 52 acres) of office and commercial use. The developer indicated the reason for the "LC" designation for the office parcels was to avoid rezoning if final alignment of the drainage reserve resulted in minor parcel boundary shifts.

The developer has proposed an interim level of development that would limit initial development to Parcels 1, 11, 12, and the north 550 feet of Parcel 2 until traffic study/improvements have been completed and until major improvements are made to Greenwich Road. All four of these parcels are oriented to 21st Street North, which was recently expanded to a four-lane arterial with center turn lanes and some right turn accel/decel lanes. Recommendations will be separated into those applicable to interim development and the requested ultimate scheme of development.

Ultimately, the developer proposes to develop the land with commercial and retail uses along the major arterials. Office uses are requested for the interior lots along the collector streets. Residential uses are identified for Parcel 7, although it is requested for "GO" zoning. The residential uses would be single-family, patio homes, zero lot line, duplex, multi-family and church. This parcel forms the western edge of the new development and the developer has proposed the residential uses to coordinate with the residential uses to the west. Residential uses are also allowed in the other parcels and the developer has indicated that they may introduce some residential/retail/lower intensity commercial mixed-use types of development.

19th Street North would be extended through the development, which will make it continuous from Webb Road to Greenwich. The other major street is located directly opposite the major entrance proposed for a shopping center to the north of 21st Street North. A large reserve area for drainage (11.54 acres) bisects the tract from the north on 21st to Greenwich. This reserve will serve to separate the commercial areas into three clusters: Parcels 1 and 2 at the corner of the intersection, Parcel 12 west of the drainage way and street, and Parcels 3, 4, 5, and 14 south of the drainage way on Greenwich. The office uses cluster around a central focal point (small traffic circle island) at the intersection of the two collector streets.

Maximum building coverage ranges from 21.5 percent to 30.1 percent on the parcels, and averages 22.9 percent overall, including the drainage reserve (28.4 percent exclusive of drainage area). Floor area ratio averages 24.7 percent overall (30.6 percent exclusive of drainage area), and ranges from 21.5 percent to 33.4 percent. These levels conform to Unified Zoning Code requirements for C.U.P. development and are set at typical development levels achieved in the Wichita metropolitan area.

Maximum building height is 45 feet for the cluster of office parcels plus one commercial parcel radiating around the traffic circle island. The maximum height of all other parcels is 35 feet.

Setbacks are 35 feet along exterior boundaries and streets except for Parcel 7, where it is reduced to 20 feet. No interior parcel boundary setbacks are shown. If Parcel 7 is zoned "GO", the setback of 20 feet on Parcel 7 requires Wichita City Council approval since it is less than the 35-foot C.U.P. nonresidential minimum setback.

Landscaping is per the City of Wichita Landscape Ordinance. Screening walls are per C.U.P. requirements for a six feet high masonry wall except that it allows for the use of the Landscape Ordinance and the general UZC screening option to provide a 15-foot minimum width buffer with at least one tree and five shrubs every 30 lineal feet, one-third of these being evergreen, for side or rear property lines of parcels developed with office, institutional or multi-family residential. A screening wall or buffer would not be required for single-family and duplex uses, which is commensurate with development practice throughout Wichita.

Architectural compatibility is required for Parcels 1 and 2 together, Parcels 3 and 14 together, and Parcels 4 and 5 together. All commercial parking lots and all office parking lots will use similar lighting lamps, poles, etc. as a unifying design element.

A three-tiered approach is requested for freestanding signage. All freestanding signs would be monument signs. Three taller (30 feet) signs with up to 300 feet per sign face would be used as shopping center identification signs. One would be located on 21st Street North, the other two located on Greenwich. The remaining monument signs on 21st and Greenwich would be spaced 150 feet apart and be a maximum of 20 feet in height with up to 150 feet per sign face. Along the interior streets, two signs with a maximum

height of 15 feet with up to 100 feet per sign face on Parcels 5 and 14. The remaining signs would be eight feet in height with only 50 square feet per sign face. The three-tiered sign plan generally meets City of Wichita signage requirements, except the 30-foot signs normally require trading off one other sign location. The developer is limiting the total amount of signage on arterial streets to 0.8 x lineal frontage and on collector streets to 0.5 x lineal frontage, which is the amount allowed by the Sign Code.

Other sign requirements are to limit window signs to 25 percent of the window area, prohibit wall signs on the rear of buildings facing residentially zoned districts, and prohibit off-site signs. Also, the C.U.P. requested that future requests for larger and taller signs for hotel use "be looked upon with favor".

Prohibited "LC" uses in all parcels requested for "LC" zoning are: group homes; correctional placement residences; vehicle storage yards; vehicle repair, general; outdoor storage; pawn shops; taverns; night clubs; sexually oriented businesses; asphalt and concrete plants; and adult entertainment as defined by city code. Additional restrictions are placed on Parcels 2, 5, 12 and 14. These parcels would prohibit: service stations; convenience stores with gas islands; vehicle repair, limited. Drinking establishments would be prohibited except on Parcels 2, 5, and 14, and these parcels would be limited to no more than one establishment apiece. Any use that is considered by the UZC as a Conditional Use would require a C.U.P. amendment or adjustment prior to being allowed.

Cross-lot circulation is required of all adjacent commercial parcels and a pedestrian circulation plan is required for all parcels.

The site is currently held as a large estate with a single-family residence located on proposed Parcel 8. The estate has an exceptional vast stand of mature trees, generally located following the contours of the proposed drainage reserve. The developer has indicated a desire to protect and preserve trees when possible. The site has a 100' KGE easement along the southern property line and a blanket easement for a gas line over Parcel 7, the parcel identified for residential uses.

Most of the surrounding area is undeveloped today. However, recent development proposals would transform this area to a highly developed corridor along Greenwich. The property to the north of 21st Street North is DP-234 Regency Lakes C.U.P. An application has been filed to amend this 68-acre development to accommodate a large amount of retail-type development. This case is scheduled for MAPC consideration on October 9, 2003. The property to the northeast is platted as the Manhattan Addition and is vacant except for a bank facility. The remaining 1-acre tract is approved for "LC" development in accordance with restrictive covenants tied to the subdivision plat. The property to the east has a strip of "LC" zoning along 21st Street North, with the balance of the tract zoned "SF-5" Single-family Residential. The rest of the quarter section to the east is held in a large estate with a residence, zoned "SF-20 Single-family Residential. The property to the south is zoned "GI" General Industrial and is the location of an asphalt plant and a graveyard for old airplane parts. Additional development is planned for the 13th Street North and Greenwich area, including a large bowling alley and several smaller shopping centers. The property to the west of The Woodlands is being developed with a new residential subdivision, Remington Place. One 40-acre tract to the north and west of DP-266 is also held in a separate ownership in a large estate. It is zoned "SF-20". Regency Lakes Addition, a single-family neighborhood and assisted living facility (PUD #2), is located to the north and west.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

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|----------------------------|--|
| NORTH: "LC", "SF-5", "PUD" | Vacant, bank, single-family, assisted living |
| SOUTH: "LI", "GI" | Asphalt plant, salvage yard, vacant |
| EAST: "LC", "SF-20" | Estate, vacant |
| WEST: "SF-5" | Single-family under construction |

PUBLIC SERVICES:

2002 traffic counts for 21st Street North were 4,241 cars per day; for Greenwich counts were 5,045 cars per day. The 2030 traffic projection for Greenwich from 17th to 21st west was 14,500 vehicles per day. The 2030 projection for 21st Street North was 22,000 vehicles per day. However, these projections do not account for proposed and likely new developments that are being discussed in this vicinity. These developments would likely have increased the projections for traffic volumes significantly. Another issue is whether the K-96 interchange would be expanded from its current half interchange to a full movement interchange.

21st Street North is improved as a four-lane arterial street with center left-turn lane. Greenwich is a two-lane arterial with short center left-turn lane. Greenwich is included in the C.I.P. for widening in 2010.

On 21st Street North, the C.U.P. proposes one street, one major opening, and one right-in/right-out opening on 21st Street North. The street is aligned with the major opening on DP-234 Regency Lakes C.U.P. to the north. The major opening is unspecified, but is generally in the same placement as a major opening into Regency Lakes. On Greenwich Road, the C.U.P. proposes one street, two major openings, one minor full movement opening, and two right-in/right-out openings. The openings generally adhere to the spacing of the access management policy.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES:

The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "Low density residential" and "commercial" development. The proposed C.U.P. shows a larger area for commercial use than the Land Use Guide, adds an area for office, and keeps the area nearest the residential development to the southwest in residential types of uses, but would allow for a range of dwelling types and densities.

Commercial Objective III.B encourages future commercial areas to “minimize detrimental impacts to other adjacent land uses”, with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the “Wichita Land Use Guide”, and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed C.U.P. is in conformance with the general recommendations of the Comprehensive Plan, objectives and land use locational guidelines.

Residential Objective II.A.1 seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. The proposed C.U.P. would allow for residential development meeting these objectives.

RECOMMENDATION: Greenwich Road is only improved to two-lane arterial street standards at the current time. As previously discussed, a significant level of development is being anticipated on the Greenwich corridor. Because of the large increase in traffic anticipated on the Greenwich corridor and lack of improvements, the city has been in discussion with this developer and others about the possibility of a coordinated corridor traffic study instead of a traffic impact study for each separate development.

In response, the developer has offered to limit interim development to Parcels 1, 11, 12 and the northern 550 feet of Parcel 2. Upon completion of a traffic study, either as a participant in a corridor traffic study or for the project, the developer would seek to identify transportation improvements to facilitate the phasing of the remaining development. The developer noted that they were in agreement with this approach so long as the transportation improvements required of the developer by the traffic study were commensurate in scale with typical transportation improvements.

The overall amount of commercial development being requested exceeds expectations of the Land Use Guide, and the capacity of the road network, particularly until Greenwich is widened and improved with center turn lanes, adequate storage capacity and accel/decel lanes. Accel/decel lanes are inadequate on the eastbound leg of 21st Street North. Finally, signalization would probably be necessary if development of this site and adjacent sites occurs at the likely level now being discussed.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

A. APPROVE the zone change (ZON2003-00042), subject to platting of the entire property within one year;

B. APPROVE the Community Unit Plan (DP-266), subject to the following conditions:

1. Interim Improvements and Development Requirements

- a. Development shall be limited to Parcels 1, 11, 12 and the northern 550 feet of Parcel 2.
- b. The only drive opening permitted on Greenwich Road shall be the right-in/right-out drive nearest 21st Street North and it shall have channelization to prevent left-turns, and a decel lane from the intersection to the drive.
- c. The traffic study shall be submitted prior to filing of the subdivision plat and shall be reviewed in conjunction with the plat. This traffic impact study shall identify interim improvements and permanent improvements, and the share of traffic signalization.
- d. Other interim traffic improvements shall be identified by the traffic study.
- e. A guarantee for participation in a traffic signal at the intersection of the collector street and 21st Street North shall be provided per the recommendations of the traffic study at the time of platting.
- f. A 25x25 corner clip for a traffic signal shall be shown at the 21st Street North/Greenwich intersection on the C.U.P.
- g. If the developer seeks to develop a different parcel, the amount of development in an approved parcel shall be reduced commensurately. The developer shall request an administrative adjustment to the C.U.P., and, as part of the administrative adjustment review, the city may require additional interim improvements if the parcel would be placing additional burdens on the street network at points not designed to accommodate the development.

2. Access controls: Access controls shall be in accordance with the Access Management Policy, and shall include the following:

- a. The collector street and the full movement drive onto 21st Street North shall be aligned with the drives planned on the property to the north.
- b. The major opening onto Greenwich on Parcel 5 shall be located at least 400 feet south of 19th Street North.
- c. The CUP must ensure that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping.

3. C.U.P. Provisions and Requirements:

- a. Add to General Provision #10: Parcels 3, 4, 5 and 14 shall each have the same predominant exterior building materials. The office parcels shall share unifying elements, including parking lot layout and design, landscape palette, and similar architectural materials.
- b. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
- c. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- d. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

- e. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-265) includes special conditions for development on this property.
- f. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the surrounding area is undeveloped today. However, recent development proposals would transform this area to a highly developed corridor along Greenwich. The property to the north of 21st Street North is DP-234 Regency Lakes C.U.P. An application has been filed to amend this 68-acre development to accommodate a large amount of retail-type development. This case is scheduled for MAPC consideration on October 9, 2003. The property to the northeast is platted as the Manhattan Addition and is vacant except for a bank facility. The remaining 1-acre tract is approved for "LC" development in accordance with restrictive covenants tied to the subdivision plat. The property to the east has a strip of "LC" zoning along 21st Street North, with the balance of the tract zoned "SF-5" Single-family Residential. The rest of the quarter section to the east is held in a large estate with a residence, zoned "SF-20 Single-family Residential. The property to the south is zoned "GI" General Industrial and is the location of an asphalt plant and a graveyard for old airplane parts. Additional development is planned for the 13th Street North and Greenwich area, including a large bowling alley and several smaller shopping centers. The property to the west of The Woodlands is being developed with a new residential subdivision, Remington Place. One 40-acre tract to the north and west of DP-266 is also held in a separate ownership in a large estate. It is zoned "SF-20". Regency Lakes Addition, a single-family neighborhood and assisted living facility (PUD #2), is located to the north and west.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as zoned, except the proximity of larger commercial development to the north reduces the likelihood of residential development occurring along 21st Street North.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed development could impact the large estate residences nearby. The C.U.P. expands the amount of nonresidential development anticipated along the Greenwich corridor.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies:
The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "Low density residential" and "commercial" development. The proposed C.U.P. shows a larger area for commercial use than the Land Use Guide, adds an area for office, and keeps the area nearest the residential development to the southwest in residential types of uses, but would allow for a range of dwelling types and densities. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed C.U.P. is in conformance with the general recommendations of the Comprehensive Plan, objectives and land use locational guidelines. **Residential Objective II.A.1** seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. The proposed C.U.P. would allow for residential development meeting these objectives.
5. Impact of the proposed development on community facilities: The significant traffic increases from the development will need to be addressed by the traffic impact study in order to tailor the transportation improvements needed on 21st Street North and Greenwich Road. Drainage will need to be addressed during platting.

DONNA GOLTRY, Planning staff presented staff report.

WARREN What do you mean by, development will be phased in?

GOLTRY The developer has said that they would confine development to those areas along 21st Street North, including Parcel 1, 11, 12 and the northern 550 feet of Parcel 2 until the Traffic Study is completed to determine what the level of improvements are needed along the arterial streets. 21st already has quite a bit of improvements, but there may be some additional improvements needed, like traffic signalization. Greenwich is not improved; Greenwich is still a narrower type county road. As the improvements are defined by the traffic study, and as they come into place, the development for the residual of the parcel will become available.

BISHOP I have a question about the interim situation. Is there going to be a problem with platting?

GOLTRY It is likely that they will probably do a one-year platting extension if they can't get the whole property platted in the first year.

MILLER They could do a preliminary plat on the whole development, and then just final out the pieces as they are ready to be taken down.

DUNLAP This is a prime piece of property on the east side. But I am thinking about the development on the north side and south, around the Warren property. When are we planning to improve Greenwich?

GOLTRY Looks like 2010 is when it is on the CIP.

DUNLAP We can't wait that long.

GOLTRY That is what the developers are saying as well.

DUNLAP We have some major developments going in there now, and Greenwich can not wait that long.

GOLTRY This is why the developers are agreeing to interim improvements. Without a full-blown corridor traffic study we can't get a complete picture of all needed improvements along Greenwich. So far, we have not been able to pull everyone together to do a corridor traffic study.

DUNLAP We have so many things that are going to be happening at the same time. Maybe Traffic Engineering can answer this question?

GOLTRY I am not sure they can move Greenwich up on the C.I.P. immediately. Even if WCC or BOCC decided tomorrow this was a priority, it will still take 3-5 years to get to construction. On the other hand development, will take 2-4 years as well.

DUNLAP We are talking about an economic development piece here that we sorely need, and we can't squeeze the development back.

GOLTRY What is fair for road improvements for one developer might be his share for accel/decel lanes, traffic signalization, center turn lanes--those kinds of customary traffic improvements. But determining what level of improvements should be, such as single versus dual left turn lanes, this is something that the traffic study is used as a basis to peg the level of the needed improvements. We don't have the traffic study done yet to complete this analysis.

DUNLAP I don't believe that it is acceptable or reasonable to wait until 2010 for the improvements to Greenwich.

BARFIELD Also the C.U.P. requested that future requests for larger and taller signs for hotel use "be looked upon with favor". What does that mean?

GOLTRY It is a statement that they included in the C.U.P. I suppose that is like having a foot in the door, in a sense, that they would like it to be considered favorably. I don't think it is a binding decision. If they have to amend the CUP for signage changes, we will still evaluate the reasonableness of the request then. In the staff report it is stated that this is the developer's suggestion, but there is no comment on staff's part that we would approve it.

GEORGE SHERMAN, SLAWSON COMPANIES We are in general agreement with staff. About the traffic improvements, we are not entirely comfortable with the phasing in, and the traffic study. We agree with Mr. Dunlap about Greenwich Road, and its need to be improved. We think 21st and Greenwich is a major corridor already. We put together what we thought was a nice development. We bought this property from the Kitch family. They planted almost every tree on that site, and they are old friends of Mr. Slawson. We think we can respect the trees and the water features through our proposed development. We know there is a lot of retail development potential out here; our marketing people feel that way too. There is some confusion on the zoning where we have requested LC zoning, and we are limiting it to office uses. We have curved streets and odd shaped lots. So, we thought it would be easier to zone it "LC" to avoid parcels only being partly covered by the right zoning. Up until last night, I didn't know we had any problems with opposition, but there are some people that are here today to speak. There are some safeguards in the CUP language to make this a nice development.

WARREN There is some question about the plat--whether maybe you would stop at the preliminary, or will you go ahead with the final and record that. What is your intent?

SHERMAN We have a year to plat, and we have committed to doing a traffic study. And then we can do the plat either way by doing a preliminary and a partial final plat or go ahead, at that time, and do a whole plat.

WARREN It would seem your CUP is tied to the overall of this plat; it would seem to me like it would have to be all platted with a year wouldn't it?

MILLER They could get extensions, but also they could plat only those parcels that they are ready to take down, and leave the rest of it until the future. If they did a preliminary plat on the whole development, it is acceptable to only final out the parcels that they are ready to do and leave the rest of them until later.

WARREN Leave the CUP intact and record on a partial final plat?

MILLER Yes, and as it goes through development, then only those parcels that are final platted are eligible for building permits.

WARREN In this Item 1 which the applicant has agreed to--that only parcels 1, 11 and 12 can be developed.

SHERMAN And part of 2.

WARREN What triggers this as to when that limitation expires?

SHERMAN We will have to do a traffic study on the streets around our parcel. And my understanding is that the study will be reviewed by Traffic Engineering. Typically, either the city will do some improvements or the developer. I think Engineering is looking at the situation that often happens before they have planned the whole street project, where they will have gone in and had a developer add a decel lane. But it is not installed in such a way that it can be used when the street is widened with additional

improvements. So they end up tearing that improvement out, maybe two years after they put it in. They wanted, in this case, to look at the big picture to avoid this problem.

WARREN Are you in agreement with staff comments?

SHERMAN Yes. With the large holding such as this, I think for years, planners have thought it was better to do a master plan for the whole thing rather than do part of it. I am not saying we are not going to ask for revisions but we want a big picture as well.

BISHOP What about the railroad right-of-way to the south? If that is abandoned, would you agree to rail banking process?

SHERMAN It is something we would like to see happen.

MARNELL On the platting, is that standard policy to do it with partial platting?

MILLER The language is fine. Typically most people plat the whole property; within a year they will have the development figured out and plat the whole thing. It is not illegal to do it in phases.

SHERMAN This allows that if we find a user for some of that land that we are allowed to develop now in which can we would come in and work it out with staff.

GREG FERRIS, FERRIS CONSULTING, I represent Bruce and Sharon Brown. They own the unincorporated part (pointing to the east). We are not in opposition to the development. Certainly this corridor is going to be highly developed. But, we don't agree that it is primed for development out there. You have the concrete plant to the south and will probably be there for sometime. We have made a suggestion, and the developer doesn't like it. They want to develop everything LC, and they want to ask for a use change and not a zone change later on, and that would be much easier. We propose that the 21st and Greenwich is the area that is going to be developed first, so we have asked them to do Parcel 1, 2, 10, & 13 as "LC." Those make sense to zone "LC." We believe those are likely to be developed. We believe this area here (pointing to an area along Greenwich) should be zoned "GO" now and in the future. They don't have a specific use or a specific user yet for the parcels. Why zone all of this "LC" now. We believe 3, 4, 5, 14, should be zoned "GO."

A couple of concerns - this request exceeds the Land Use Guide. You don't need to zone this all Light Commercial now, particularly with the fact that you are going to allow him to develop partially and wait to plat. Parcel 5, which allows 225,000 square feet of building coverage, that is the size of two giant WalMart stores. Even the findings say the estate development will be impacted. We would ask that commercial development should be located near the intersection.

SHERMAN As Mr. Ferris said, as far as the development of Greenwich Road and the need to improve it, there is a need to do it. That is why we agreed to phase in the development. He mentioned that he thought this was a over development of LC. We think if it turns out that way, we can work office into the development. I think zoning, from here moving up to K-96, is going to fill in rapidly there. More and more residential will be located up there. We cannot do two WalMarts out there because a single Wal-Mart is that size. I am not saying that it is for Wal-Mart; we are not intending to do a Wal-Mart there.

WARREN First thing that came to mind is to take a look at Greenwich in itself. As we know what happened to Rock Road, there is a tremendous amount of traffic. Webb Road is not going to be a thoroughfare road. So what does that leave going east? That is going to lead Greenwich, which is going to get more and more traffic. I think asking for the LC zoning is more than fair because it gives notice to the public and people buying in the area to know what is going to be here. I look at this like Bradley Fair.

BARFIELD I am taking the opposing viewpoint. There is residential development out there, and I would like to see that along Greenwich Road. I am opposed to this application.

BISHOP We have the list of uses that are going to be eliminated, but one of the ones allowed is "drinking establishment." Is that a restaurant?

GOLTRY A drinking establishment would be something similar to the new Fox and Hound business, which is going in on the Waterfront property. They eliminated drinking establishments except for Parcels 2, 5, 14. And so they have said, in those cases, they can only have one drinking establishment apiece on those parcels.

BISHOP If it were not to be approved with "LC" zoning and went to "GO" zoning, drinking establishments would not be allowed?

GOLTRY Correct.

JOHNSON I respect Mr. Sherman, and he has put a lot of work in this project. I am going to support the way that it is presented. I can't see GO backed up to heavy industrial.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **DUNLAP** seconded the motion.

BISHOP I think the developer is willing to make sacrifices, however we are supposed to make decisions on the application itself. The applicant is not something we are not to consider. The decision will run with the land and it could be sold tomorrow. I intend to oppose the motion.

HENTZEN I am going to support the motion.

MOTION CARRIED: 9-2. **BISHOP** and **BARFIELD** opposed

7. **Case No.: ZON2003-41** – FLKS Land Development LLC, (Steven Barrett); Baughman Company (Russ Ewy) Request Sedgwick County Zone change from “SF-20” Single-family Residential to “SF-5” Single-family Residential on property described as;

The West Half of the Southeast Quarter of Section 12, T27-S, R-2E of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT the railroad right-of-way on the north. Generally located North of 13th Street North, approximately 1/2 mile west of 159th Street East.

BACKGROUND: The applicant is seeking “SF-5” Single-family residential zoning on 75.36 acres of land located north of 13th Street North and ½ mile west of 159th Street East. The property is currently zoned “SF-20” Single-family Residential, and is currently used as farm ground. The applicant seeks the zoning in order to develop a 168-lot residential development. A thick hedgerow of mature trees surrounds the entire site.

13th Street East provides the property’s only street frontage, and is an unpaved sand and gravel street with 30 feet of half street right-of-way. The property abuts the Savannah at Castle Rock Ranch additions to the west that are platted for single-family residences. Sundance, a local street in one of the Savannah at Castle Rock Ranch additions, ends at the applicant’s western property line, and provides a second access point to the property.

Property surrounding the application area is either in agricultural or residential uses.

CASE HISTORY: A preliminary plat depicting single-family lots has been filed as Stonebridge Addition, and was heard by the Subdivision Committee on July 31, 2003.

ADJACENT ZONING AND LAND USE:

NORTH: “SF-20”, Single-family Residential; railroad tracks, vacant
SOUTH: “SF-20”, Single-family Residential; pasture, horse barn
EAST: “SF-20”, Single-family Residential;
WEST: “SF-20” and “SF-5”, Single-family Residential; residences

PUBLIC SERVICES: 13th Street is a two-lane sand and gravel road with 30 feet of half-street right-of-way. The “2030 Transportation Plan” indicates this segment of 13th Street is to be a four-lane expressway, and the “Sedgwick County 2003-2007 Capital Improvement Plan” indicates this segment of roadway is to be widened to four lanes in 2006. Public sewer service is expected to be available by the end of 2004. Water service is available for extension.

CONFORMANCE TO PLANS/POLICIES: The Wichita-Sedgwick County Comprehensive Plan depicts this site as appropriate for “low density residential”, and the site is located within Wichita’s 2010 Urban Service Area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year. This recommendation is based upon the following findings:

1. **The zoning, uses and character of the neighborhood:** Surrounding uses are either zoned “SF-5” or “SF-20” Single-family Residential. Surrounding property is either in agricultural or residential uses.
2. **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned “SF-20” Single-family Residential that permits single-family residential use on minimum lot sizes of 20,000 square feet. The property could be developed as currently zoned, however with the programmed capital improvements mentioned above, it would be appropriate to permit more dense residential development than is allowed by the current zoning.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The application area is part of a larger portion of eastern Sedgwick County that has been slowly, but steadily transitioning from agricultural and large lot residential uses to nonagricultural, urban density developments at a greater density than the “SF-20” district allows. Development permitted by the “SF-5” district permits similar uses as the “SF-20” district, just at greater densities. The increased densities permitted by the “SF-5” district should not detrimentally affect nearby property once public sewer service is available and 13th Street is improved to accommodate increased traffic.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The proposed zoning is in conformance with adopted plans. The “Wichita-Sedgwick County Comprehensive Plan” depicts this site as appropriate for “low density residential” uses, and the site is located within Wichita’s 2010 Urban Service Area.
5. **Impact of the proposed development on community facilities:** If developed as anticipated with 168 single-family residential lots, current and planned facilities and improvements will be able to accommodate the proposed development.

MOTION: To defer until next meeting October 9, 2003.

DUNLAP moved, **BISHOP** seconded the motion, and it carried (11-0).

8. **Case No.: CUP2003-44 DP53 Amendment #5** – 1301 Associates, LLC, c/o Leo Goseland (owner); Baughman Company, PA c/o Russ Ewy (agent) Request Amendment to The Quail Meadows Community Unit Plan on property described as;

Lot 1, Don and Marvin Addition, Wichita, Sedgwick County, Kansas. Generally located Northwest corner of Boston and Webb Road

BACKGROUND: The applicant is requesting to amend Parcel 3A of DP-53 Quail Meadows Community Unit Plan. Parcel 3A is a 1.1 acre tract zoned "LC" Limited Commercial that is located on the northwest corner of Webb Road and Boston Street. Currently a restaurant is permitted on Parcel 3A, but a drive-in or drive-through window is prohibited. The requested amendment would remove this restriction. The requested amendment also would remove the requirement that any nonresidential building on the parcel be designed with a residential character. Instead, the architectural requirement would be to use predominately earth-tone colors with vivid colors limited to incidental accent. Finally, the amendment would allow an additional access point on Webb Road.

Originally, the applicant also requested to reduce the northern building setback line from 30 feet to 10 feet; however, this reduction had been granted by a previous amendment, so can be removed from consideration in the current request. Amendment #3 reduced the setback to 10 feet and added a screening wall requirement along the northern boundary of Parcel 3A.

Quail Meadows is a large community unit plan that covers a quarter section of land located at the northwest corner of Harry and Webb Road. A Dillons Super Store is located on Parcel 2 nearest the intersection; this parcel is zoned "LC" Limited Commercial and is located immediately south of the subject tract. An office and a day care, both of which are located on parcels zoned "GO" General Office, are located west of the subject tract. The remainder of the C.U.P. is developed residentially with a range of dwelling types and densities. Parcel 4 borders the subject tract on the north. It is zoned "TF-3" Two-family residential but developed with Fox Run, a 16-acre garden apartment complex.

The property to the east of Webb Road is developed with Coventry condominiums. Harrison Park is located to the northeast, and more commercial development is located to the southeast of the site.

CASE HISTORY: DP-53 Quail Meadows C.U.P. was approved May 29, 1973. Amendments 1 through 3 all dealt with the subject tract, Parcel 3A. Amendment #1 in 1995 changed the zoning of the property from "BB" Office to "LC", and added the current use restrictions including prohibition of drive-in or drive-through restaurants, signage limited to 60 square feet, residential character architectural façade requirement, and complete access control on Webb Road. Amendment #2 in 1998 to permit a drive-through restaurant and increase signage was denied. As previously discussed, Amendment #3, approved in 1999, reduced the northern setback and required a solid screening wall conforming to C.U.P. standards. V -2140 was approved in conjunction with Amendment #3. Amendment #4 in 1999 added a nursery and garden center in conjunction with the grocery store on Parcel 2.

The property is platted as the Don and Marvin Addition, recorded January 6, 1996.

VAC2003-00044 has been filed to vacate the platted access control on Parcel 3A. The vacation request is being reviewed concurrently with this C.U.P. amendment.

ADJACENT ZONING AND LAND USE:

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| NORTH: "TF-3" | Apartments |
| SOUTH: "LC" | Grocery, retail, fuel outlet |
| EAST: "GO", "SF-5", "LC" | Condominium, park, strip center |
| WEST: "GO", "TF-3" | Office, day care, multi-family, duplex, single-family |

PUBLIC SERVICES: This site has access to Webb Road, a four-lane arterial, and Harry, a four-lane arterial, with left-turn lanes, and right turn accel/decel lanes. 2002 traffic counts were 17,423 cars per day on Webb from Harry to Lincoln. Traffic volumes are projected to increase to 23, 000 vehicles per day in 2030.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the *1999 Update to the Comprehensive Plan* identifies the general location as appropriate for "commercial" development. Restaurant use is in conformance with the Land Use Guide.

The **Commercial/Office Objective III.B** of the *1999 Update* seeks to "develop future retail/commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses". Commercial locational guidelines stipulate that commercial development should require site design features to limit noise, lighting, and other aspects of commercial development to not adversely impact surrounding residential areas. The recommended conditions seek to reduce adverse effects that could result from the location of a drive-through window on the site and adding another access point on Webb Road.

RECOMMENDATION: It is our understanding that the building will be located at least 75 feet from the northern property line and the drive-through window speaker board will be located toward the southwest of the property for a better separation from the residential uses nearby. The property has remained vacant as zoned since 1995, and commercial uses of similar intensity are located on the other three corners of the intersection of Harry and Webb. Based upon these factors and information available prior to the public hearing, staff recommends the request for Amendment #5 be APPROVED subject to the following conditions:

1. General Provision #8 shall be modified to reflect the wall requirement approved by Amendment #3.

2. Add the following to Parcel 3A Proposed Uses: The speaker order board shall not project sound so as to be audible from the apartment buildings to the north or the day care center to the west, or any other residential use in the vicinity.
3. General Provision #12 shall be modified to allow one freestanding monument-type sign limited to a maximum height of 20 feet and 60 square feet of gross surface area.
4. Add to General Provision #13: Metal shall not be permitted as the predominant material on any façade.
5. The access point on Parcel 3A shall be limited to right-in/right-out movements only by channelization improvements that prohibit left turns onto Webb Road.
6. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
7. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
8. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
9. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: A large grocery store with a seasonal nursery and garden center and fuel outlet is located on Parcel 2 nearest the intersection; this parcel is zoned "LC" Limited Commercial and is located immediately south of the subject tract. An office and a day care, both of which are located on parcels zoned "GO" General Office, are located west of the subject tract. The remainder of the C.U.P. is developed residentially with a range of dwelling types and densities. Parcel 4 borders the subject tract on the north. It is zoned "TF-3" Two-family Residential but developed with Fox Run, a 16-acre garden apartment complex. The property to the east of Webb Road is developed with Coventry condominiums. Harrison Park is located to the northeast, and more commercial development is located to the southeast of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is already approved for "LC" uses and could be developed as approved without the requested changes to use restrictions, access control, and architectural requirements.
3. Length of time property has remained vacant as zoned: The property has been vacant since the C.U.P. was approved in 1973. It was zoned "BB" Office until 1995, when it was rezoned to "LC". It has remained vacant as currently zoned since 1995.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested amendment allows fast food restaurant use in proximity to nearby residential uses. The proposed conditions of approval, placement of the building farther from the north property line, and placement of the speaker board nearer the commercial activities to the southwest seek to mitigate detrimental effects.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The project is generally in conformance with the Land Use Guide of the adopted Comprehensive Plan.
6. Impact of the proposed development on community facilities: The addition of an access point onto Webb Road will add an entrance within 200 feet to a street on the same side of Webb and a private drive on the opposite side. Limitation to right-in/right-out would reduce the conflict with the private drive to the east and be closer to access management policy requirements of 200 feet of separation between a full movement and a right-in/right-out only movement. The removal of the restriction for drive-in window would be projected to increase the traffic volumes over those typical of a sit-down type of restaurant.

DONNA GOLTRY, Planning Staff presented staff report.

HENTZEN You mentioned that this property has been available a long time. Would that be 30 years?

GOLTRY It was not available for commercial use until 1995. Prior to that, it was zoned GO.

BISHOP Why was this not heard by the D.A.B.?

GOLTRY Because of the calendar conflicts. The DAB meeting will fall after the protest period ends.

MARNELL On Condition #2, it says the speaker order board shall not project sound so as to be audible from the apartment buildings to the north or the day care center to the west, or any other residential use in the vicinity. Don't we have the ability to be more scientific than that?

GOLTRY We are supposed to be able to take out a decibel meter to measure sound but it is difficult to get accurate readings.

MILLER The language in the supplemental regulations says that you aren't to be able to hear it off site, that the noise must be contained on the property. However, you can drive around to many of the car dealers and many of the Q-Trips, and you can hear it down the block, depending on the background noise and weather conditions, a long way.

MARNELL In terms of this, it would be an attempt to avoid future disputes because you had an actual measurement level to evaluate. And we have had this question before. How would the neighbors say you are violating your permit? How could you defend it?

MILLER They would send an inspector out, and he would be on one of the residential properties. He would stand there awhile and see if he could hear the order board, and if he could, then it would be in violation. We tried to use the decibel reader for measuring sound with car washes. There was not a single one that exceeded the background noise, but you could still hear it.

BAUGHMAN COMPANY, RUSS EWY, agent, We are in agreement with staff comments. The order board is placed 75 feet from the west property line, and it points in the direction of the daycare center parking lot. So we feel the impact of the drive-thru and the order board will be in compliance of the Code. The new Dairy Queen is going to be a nice façade.

COULTER Russ, do you agree with the right-in/right-out drive on Webb Road?

EWY We feel that minimizes a lot of the traffic conflicts.

DUNLAP You have lighted signs on both sides of the building.

EWY We feel that the restrictions that are in place are pretty standard conditions.

DUNLAP Donna said no lighted signs on the north side.

EWY I think Donna meant that in that picture, you will see above the north entry door that there is a standard sign package above the door. We understand that the Sign Code would prohibit that because we are not greater than 150 feet away from the apartment complex's parking lot to the north. We would be able to have something facing the east and perhaps the south even.

HERNANDEZ What are your hours of operation for this proposed restaurant?

EWY I am not sure, but probably open until 10 p.m. weekdays and later on the weekends.

BISHOP The Dairy Queen currently is moving to this location. Does that Dairy Queen currently have a drive-thru?

EWY Yes, on the north side.

HERNANDEZ In looking at these slides, is there a playground north of the Dairy Queen?

EWY No, directly north of the existing Dairy Queen would be the Coventry condominiums. North of there is the south part of Harrison Park. I would leave that for the neighbors to speak to if there is a playground, but I think the southern portion of the park is fairly open.

GARY SNYDER, PLAZA REAL ESTATE COMMERCIAL DIVISION, 7701 E KELLOGG SUITE 200, I have been involved with this project for five years, and have been trying to do something with it commercially. We did speak to the daycare people, who do not oppose the development now. We agree with staff on the suggestion and comments.

BISHOP Do you know where along Webb Road there is good pedestrian access, for instance, a punch light for pedestrian crossing?

SNYDER It is at Harrison Park. I would say it is approximately 600-700 feet from the north edge of Fox Run apartments across from Harrison Park.

DEBBIE MALTBIE, PENSION ENDOWMENT FUND, OF THE KANSAS WEST CONFERENCE UNITED METHODIST CHURCH, 9440 E. BOSTON, SUITE 110 WICHITA KS 67207-3600 We are concerned about the trash, the increased noise, and that this development does not preserve residential character to which all property in this CUP adheres to. In addition, we have concerns for the children of the adjacent daycare center as they board and exit school busses. In 1998, there was another proposal. This has not gone to the DAB, and there has not been sufficient neighborhood debate.

HERNANDEZ Is that your office for the Pension Endowment Fund?

MALTBIE The Pension Endowment Fund own the property, and leases it out. But, it is an investment for the Pension Endowment Fund. It is a religious organization office building, with limited use for religious service activities, but mainly used as a meeting place.

DON SNYDER 1116 Burrus, Wichita, KS 67207, Trustee for The United Methodist Church. We are one of the tenants, and we are in discussion about the purchase of this building. With this proposed new building on the corner of Boston and Webb, we might have a concern that this building might not be as valuable in the future as it is now. Also, concerning a right-to-right entrance at Boston and Webb, if you are coming from the west to go to this establishment, you can't turn left to go on Webb. That (new proposed building) would send through more traffic onto Breckenridge and across our property to get into the proposed access off of Boston. And, for these reasons, the Trustees are opposed to this development.

DUNLAP You operate out of this building now? You have a trash issue now?

DON SNYDER Yes, we do operate out of there today. And sometimes there is trash that blows around out there. I am not there everyday.

HENTZEN Have any of the church organizations tried to buy the land?

DON SNYDER I don't believe so.

MARY JOHNSON, 1450 S WEBB WICHITA KS 67207, President of Coventry HOA. I will speak to the litter in the area. There is a lot of it. Our apartment complex is next to the front, and there are people cutting through the park to the low income housing behind us. We have never seen them try to come and pick up the litter. We have had issues with their garages. We are concerned about Fox Run residents. There are some handicapped people that do cross that intersection to go to the store, and there is only that one pedestrian crossing in that area.

We have problems getting out of our complex. That has been an issue that we have had through the last few years. My concern with requiring no left turns that it may increase people turning into our drives and doing u-turns. There are at least one to two cars in our parking lot per residence. We have the concern about the value to our investment. Their plans are not to go with the design of the building to be like neighborhood. And that is an issue because they are going to be facing our complex and the lightening will be an issue as well. We are not opposed to a business going into there, like a bank or an insurance agencies or something with a drive-thru.

EWY The site is currently zoned for LC uses except for a convenience store and from that standpoint, it will not have higher traffic flow. Any development will have an impact on traffic. What we are trying to do is account for the existing access points. Trash, noise and general way of life--if you look at Dillons to the west--the neighborhood has problems now as they exist. But I do not believe that this development is going to add to the problems.

BISHOP Are you saying you will limit to right-in/right-out on Webb Road and two more access on Boston.

EWY The access situation was dictated to us.

BISHOP What that is going to mean? Most people will go on Boston?

BARFIELD Whether we approve or not, it appears that when a fast food restaurant application comes up, the comment about the hours of operation also comes up. We need to remember some of these fast food restaurants are going to operate 24 hours a day. With any drive-thru application in the future, there is a strong potential that these will be open 24 hours.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **HENTZEN** seconded the motion, and it carried (11-0).

9. **Case No.: CON2003-00032** – Richard J. Gronniger and Dennis York (operator) Request Sedgwick County Conditional Use for sand and gravel extraction on approximately 18 acres on property zoned "RR" Rural Residential on property described as;

The West Half of the Southwest Quarter of Section 4, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the South 220 feet of the North 545 feet of the West 240 feet thereof, and except beginning at the Southwest corner of the Southwest Quarter (SW/4), thence North 120 feet, thence Northeasterly 1,364.80 feet to the East line of the West Half of the Southwest Quarter; thence South 400 feet to the Southeast corner of said W/2 SW/4; thence West 1,333.33 feet to beginning. Generally Located South of 73rd Street North and 3/4 mile west of Ridge Road.

BACKGROUND: The applicant is requesting a Conditional Use to allow sand and gravel extraction on a 71-acre unplatted tract located approximately ¾ mile west of the Ridge Road – 73rd Street North intersection. The subject property is zoned "RR" Rural Residential and is located in an unincorporated portion of Sedgwick County, just outside the Valley Center (northeast of the site) areas of zoning influence.

The area is primarily agricultural in use with scattered large tract/lot single-family residences, including 15-18 houses on either side of the site along 73rd Street North. Non-residential development includes a contractor's yard east of the site and a church campground west of the site, both along 73rd Street. Access onto the site will be off of 73rd Street, a non-section line sand road maintained by Park Township. The merging of the Arkansas River and a section of the Wichita – Valley Center Floodway forms the triangle shaped south boundary of the area. The site is located within this triangle of merging river and man-made drainage canal.

The subject property appears to be entirely in the Arkansas River 100-year flood boundary, therefore, the Sedgwick County Public Works Department will require a drainage plan, including easements, reserves, or covenants (as applicable) to ensure that the floodway is properly maintained. Sedgwick County Public Works Department will also require that the applicant apply for and receive an approved Flood Plain Development Permit, which will partially address the County's concerns about obstructions in the flood plain, such as equipment and aggregate piles. This permit will also require the applicant to include in his site plan how untreated storm water will be excluded from the proposed sand and gravel pit and confirmation that the site is a minimum of 1,000-feet from the levee along the Arkansas River. The County is also requiring the applicant comply with State Statute 24-126, "Levee

Law" which addresses stockpiling on the property, this will be obtained through the Division of Water Resources, located in Topeka. The subject property also is located within the Equus Beds Groundwater Management District #2. District #2 will require that the applicant apply for water rights through the Division of Water Resources, located in Topeka. All County, State and District #2 required permits and plans must be approved prior to the site operating for sand and gravel extraction.

The Proposed Operational Plan shows no fence around the perimeter of the plant site as required by the Unified Zoning Code, because of the site's location within the floodplain. The County, in consideration of eliminating obstructions within the flood plain, may modify the fencing requirement to a five-strand wire fence around the perimeter of the property with signs advising "No Trespassing" posted on the fence. Equipment and materials are shown at two locations on the site, one located approximately 75-feet south, of 73rd Street and the other 1,515-feet south of 73rd Street. This does not meet the setback criteria of the Supplemental Use Regulations of the UZC and the applicant must comply or ask for a waiver of that standard. A waiver would require the Conditional Use to go to the Sedgwick County Commission for final action. Excavation of sand and gravel from the site is proposed to be undertaken in 8 years, with a 14.921-acre lake having a depth of 40-feet being the end result of the excavation. As previously stated access to the site is off of 73rd Street North, a sand non-section line road that intersects with Ridge Road, a paved two-lane County Highway approximately ¾ of a mile from the site. The applicant and Park Township will make arrangements for maintenance of 73rd Street. The Township has indicated that in the past such agreements have been reached, in regards to grading and sanding, to the satisfaction of both parties. The heavy truck traffic generated by the proposed sand and gravel extraction is out of character with the current rural residential traffic on the road and can be expected to contribute to accelerated disrepair of 73rd Street.

The Unified Zoning Code requires that a redevelopment plan for sand and gravel extraction sites be reviewed by the Planning Director with a recommendation to the Planning Commission as to whether or not the redevelopment plan is compatible with surrounding land uses and comprehensive plans or other policies pertaining to land use in the area. The attached "Redevelopment Site Plan" shows that one single-family residence is proposed for the 71-acre site. The redevelopment of the site with the one single-family residence is consistent with land use plans for the area.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

| | |
|-------------|--|
| NORTH: "RR" | Agriculture, scattered large tract single-family, contractor's yard |
| SOUTH: "RR" | Agriculture, Arkansas River, sand pits |
| EAST: "RR" | Agriculture, scattered large tract single-family, drainage |
| WEST: "RR" | Agriculture, scattered large tract single-family, church Campgrounds |

PUBLIC SERVICES: This site has access to 73rd Street North, a sand non-section line, Park Township road. 73rd Street North intersects Ridge Road; a two lane paved County Highway, ¾ of a mile east of the site. There are no current traffic volume figures available for either road. The 2030 Transportation Plan estimates that the traffic volume on Ridge Road, between 77th Street North and 61st Street North will be approximately 5,500 vehicles per day in 2030. Municipal water and sewer services are not currently available to serve this site. The site is located outside the 30-year urban service area and all small city growth areas. Use of the site for sand and gravel extraction can be supported by on-site water and sewer service.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for "Rural" development. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use. Sand and gravel extraction would be dependent on a natural resource.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within a year and the following conditions:

1. All requirements of Section III.D.6.gg. of the Unified Zoning Code shall be met.
2. The approval of the Conditional Use is for a period not to exceed 8 years from the date of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The applicant shall submit a revised operational plan for approval by the Planning Director within 120 days of approval of the Conditional Use by the MAPC or governing body, as applicable. The revised operational plan shall include location of equipment and materials as approved according to the Flood Plain Development Permit. The required fencing material may be modified per the approved Flood Plain Development Permit. An approved Flood Plain Development Permit must be obtained prior to the issuance of the resolution authorizing the Conditional Use and documentation provided to the Planning Staff.
4. The applicant shall apply for water rights through the Division of Water Resources, located in Topeka. The application for water rights must be approved prior to the issuance of the resolution authorizing the Conditional Use and documentation provided to the Planning Staff.
5. The applicant shall provide a drainage plan, including easements, reserves, or covenants (as applicable) to ensure that the floodway is properly maintained. The approved plan shall be submitted to the Planning Department prior to the issuance of the resolution authorizing the Conditional Use.
6. The applicant shall provide evidence of an agreement with Park Township for improvements, repair and maintenance of 73rd Street North.

7. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding immediate area is primarily agricultural with scattered large tract single-family residential all zoned "RR" Rural Residential. The extraction of sand and gravel at this location is not entirely consistent with the zoning, uses, and character of the neighborhood, although there are at least 5 gravel and sand extraction operations south of the site, from the Arkansas River - 61st St North and 45th Street North on either side of Ridge Road. These sites are zoned either SF-20 single-family residential in anticipation of single-family residential redevelopment around the sand pits left after the sand and gravel extraction is finished or "RR".
2. The suitability of the subject property for the uses to which it has been restricted: The "RR" Rural Residential zoning designation of the subject property permits sand and gravel extraction upon approval of a Conditional Use. Location of the site within the Arkansas River Flood Plain and the Equus Bed will require the applicant to met County and State requirements for flood plain development and development over the Equus Bed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on nearby property should be minimized by the various setback requirements and operational restrictions required as conditions of approval. An agreement with Park Township for maintenance and repair to 73rd Street North, in consideration to the volume of heavy truck traffic on the street will address the anticipated accelerated disrepair of 73rd Street North caused by this traffic. Dust off 73rd Street caused by the heavy truck traffic will increase and the change in the volume of traffic and type of traffic generated off the site could pose traffic safety issues.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita/Sedgwick County Comprehensive Plan indicates that industrial type uses such as sand and gravel extraction are appropriate in rural areas where the natural resource is located. The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for "Rural Residential" development. The redevelopment plan as required as a condition of approval, shows the site to have one single-family residence on the 71-acre site, which is in accordance with these land use guidelines for the area.
5. Impact of the proposed development on community facilities: The development of this property as a sand and gravel extraction operation could have a significant impact on community facilities, via the impact on the flood plain and the impact of the heavy truck traffic on 73rd Street North, a non-section line sand road maintained by Park Township that currently has rural residential type of traffic.

BISHOP Bill, on page 2, it reads "Excavation of sand and gravel from the site is proposed to be undertaken in 8 years" now that reads to me like they don't intend to start doing anything until 8 years from now. Yet in the Conditions of Approval, the conditions only exist for 8 years.

LONGNECKER Go with the 8 years of operation of the sand and gravel pit.

BARFIELD The introduction of this type of traffic is not unusual for this type of business, it is just unusual for this particular street; is that correct?

LONGNECKER That is correct.

BARFIELD So Condition #6 would pretty much take care of everything you are concerned about?

LONGNECKER Yes.

DUNLAP I don't remember the Township or Public Works doing this type of road before; is this normal?

LONGNECKER The Township maintains this road at this point. The Township and applicant reach an agreement in regards to materials and labor for maintenance for that road so the residences that are currently there, as well as the sand and gravel business trucks, can operate safely on the road. Park Township has spoken by phone to staff, and the applicant has indicated to me of a meeting with Township in regards addressing the concerns of taking care of the road and maintaining it.

DUNLAP It might be better than it is today, but who is going to do the improvements?

LONGNECKER They indicated to the applicant and staff, they would do it jointly.

MITCHELL Bill, on page 2, it reads "District #2 will require that the applicant apply for water rights through the Division of Water Resources. I don't know that District #2 has any authority to require anything in this area they can recommend to the Division of Water Resources.

LONGNECKER After speaking with the Water Resources group in Topeka, they indicated that District #2 would be acting on their behalf and they would participate in the review of this application.

MITCHELL District II does not grant permits.

LONGNECKER No, they review application and the permit would be granted through the State with the Division of Water Sources.

MITCHELL Put that in your recommendation. Also, you said the run off would have to be excluded from the opening of the sandpit. I don't find that in your recommendations.

LONGNECKER Condition #4 states "The applicant shall apply for water rights through the Division of Water Resources, located in Topeka. The application for water rights must be approved prior to the issuance of the resolution." My understanding is, after talking with Water Resources, they would review the plan to exclude untreated groundwater from the plat that would be part of that application.

MITCHELL That is true that would be their recommendation, but I am questioning whether they have the authority require it.

LONGNECKER My impression is that they would have the authority.

MITCHELL I don't believe either they or the Kansas Department of Health and Environment has the authority, and that is under discussion now.

LONGNECKER So you are suggesting that we have a condition that does not have the statues to enforce this standard?

MITCHELL This body could make that requirement. I don't believe it can be done through State legislation.

LONGNECKER We have an operational plan and a redevelopment plan.

MITCHELL Dale, the questions of the Flood Plain Development Permit, and how flooding would be handled across this, all of that would be taken care of in the County Drainage Plan approval then?

MILLER Correct.

MITCHELL Which doesn't require platting in order to implement that requirement?

MILLER Correct, initially I thought we were requiring platting because the County wanted it, but I don't think that is the case.

DENNIS R. YORK, Operation, 11912 W. 20th N. Wichita, KS 67212 I will actually be the operator of the sandpit. The issue with the flood plain and the groundwater surface run off, these actions along with what you have presented are also entailed in MSHA; that is the Mining, Safety, and Health Association which also has federal regulations concerning a quarry or an open pit type of operation. There is a berm that is half the wheel height of the largest equipment that is operating on site that is to prevent anybody from driving into a sandpit, and it is also to prevent any surface water run off. The roadway, up here, is level with the fields, and there are no cut ditches for drainage. So, we have no real surface water runoff problems. All the material that is pumped up will be contained and drained back through settling ponds so that clear water goes back in the lake. The lake contains a berm of approximately 3 feet height to keep floodwater or any other surface water runoff from getting into the lake site. The fuel tank is contained by a trench. The berm is sufficient in size to hold three times the capacity of the fuel that would be stored in that site. That berm and this berm are two safeguards to protect the groundwater.

KEVIN QUENZER, 7410 W. 73rd N., Valley Center, KS 67147 I am a homeowner east of proposed site. I am against the 8-year project for sand and gravel extraction traffic going down 73rd Street. Park Township maintains the street now, and has not said anything to the homeowners. There is not enough room for a school bus or two vehicles to go down that road. I think a person who wants to build a lake down there could, but not run a business. I am afraid of the safety of 73rd Street and Ridge Road, because of the truck traffic from the business. There is a levy that you cannot see over, and when the trucks come down 73rd to go to Ridge, you can't see them over the levy. People back out on 73rd Street, and my kids will start driving on this road within a few years. There are two church camps on 73rd. The water sits on the road. I live on the north side of 73rd Street. I'll have to live with this for 8 years with the safety issues, the dust and the traffic. It is not good. As part of an agreement with Park Township, I think they should talk to the homeowners who live out there. Park Township did not even know about this two days ago. This will ruin chances for re-sale of my property, and this is not a good proposal with this type of truck traffic on 73rd Street. Please vote against this.

COULTER Show us on the map where your property is located.

HERNANDEZ Are there five or six families over there?

QUENZER There are seven or eight families.

HERNANDEZ Have you spoken to them?

QUENZER Yes, a protest petition is only for anyone within a 1,000 feet of the proposed site, but it does not really...doesn't affect anyone down Ridge Road. That is open field 1,000 feet around there. The neighbors are in disagreement with this proposal, and there will be protest petitions signed.

HENTZEN After the trucks leave the site and head towards Ridge Road, approximately how far is that?

QUENZER About a mile.

BARFIELD You mentioned the major concern is the safety from the traffic caused by the trucks?

QUENZER Yes, a combination of the proposed truck traffic, the traffic that is already there and the width of the road. This kind of traffic would be abnormal for this road.

BARFIELD Are you aware that the Conditions in the report stipulate that any violations of the Conditions of Approval declare the Conditional Use Null and Void.

QUENZER I am aware of that, but between Park Township and the applicant I don't know what kind of agreement they are going to come to. Now paving the road and widening it and putting a speed limit sign up could be an option, but now its just having someone running a grader down the road.

BARFIELD Wouldn't an improvement be better for everyone involved?

QUENZER If there is actually improvements made.

PHYLLIS HAIGH, 7451 N. 73RD ST. W., VALLEY CENTER, KS 67147 Right at the corner, my driveway goes into 73 Street. I own a property that faces 73rd. My problem is that I think absolutely nothing is going to be done to this road. I talked to a Park Township board member, and he said we are not going to do anything more than we do now. This road is not in their general area, and somehow or other they got this little part when the map was drawn. They got 2 miles going west, and one mile going north. Last year we had 20 tons of road gravel on the road and they grade it about a month or every 6 weeks in between times. Anytime it rains, water runs over the road, and in the wintertime the school busses get stuck. I have worked for a sand company for 12 years, and the trucks will damage the road. I would like to see this Commission help us get some kind of an agreement out of the applicant to maintain the road. What he wants to do is fine with me but when it comes to the road, they need to maintain it, and improve the road.

HERNANDEZ I never have worked for a sand company, who is the typical sand truck driver?

HAIGH They are intent on getting the load delivered, and most of them are paid by the ton, so the faster you go, the more you make. They don't care about rules and regulations.

MITCHELL The levy crossing of 73rd Street was put in on a minimal standard back in the 1950's, as far as the slope of that roadway going over the levy. There is not adequate sight distance on either side for a vehicle to see one on the other side or anything in that road until you get to the crest. It would be my suggestion that we defer approval of this until the County Engineers' office has worked with the applicant and Park Township to come up with a road maintenance policy and plan that would include increasing the sight distance at this levy ramp as a minimum, and that agreement come back to either the staff or to the Commission for approval before the application could be approved.

NADINE STANDARD P O BOX 4476, 67204, My company is Associated Material and Supply Company; we are a sand and gravel producer in Park Township. I am concerned about the road maintenance issue because I am a competitor and I am also a taxpayer in the Park Township. Park Township has had us in the past, when we had a sand and gravel operation at 37th and Hoover, maintain 37th Street. It was not in conjunction with the Park Township. We maintained 37th Street. It is my understanding that Quik Sand on Tyler Road maintains Tyler Road from their facility to 53rd Street North. Neither of these facilities have residences adjacent to their operations because the road in front of residential areas requires more maintenance than road that have no residential in front of them.

DENNIS YORK All of these issues that you have heard from these people is absolutely true. But everyone of these issues is not address to me, the operator, or to the owner who wants to put it in. These issues should go to Park Township for its failure to maintain an infrastructure that they can safely travel and that is a good point. One issue that hasn't been brought up here is that 15 years ago there were 3 sand companies on that road. They maintained the roads and they made the road accessible. As long as somebody else is taking care of the road, Park Township is out of the loop and they are happy.

The trucks have to have just as much safety concerns in regards to the levy crossing. These dump trucks sit up higher than cars and can see over the crossing. As far as truck speed, from the time we come out of our proposed entrance. We have less than a quarter mile to that levy, and if you have ever followed a dump truck it is not going to be going 70 miles an hour going across here, and the same way the next quarter of a mile when it comes to a stop at the Ridge – 73rd intersection. The trucks are built to haul sand and not for speed.

WARREN It has been suggested that sand companies in the past have taken on the obligation to maintain the road that 1/2 mile?

YORK It is three quarter mile. We have submitted a contract that we presented to Park Township, in which I am offering to provide the road materials, and maintain the road from Ridge Road to Tyler Road for the east three quarters of a mile from our driveway to Ridge Road.

BARFIELD It appears that Park Township is not interested in doing anything to the road. What physical plans do you have to improving the road?

YORK We talked to Park Township with a proposal in hand, and they never have had a agreement before in writing. I do not have any objections to maintaining the road. The materials we have are mudball, pea gravel and the road grader to build the road.

BARFIELD I would like to see addition wording in Condition #6 that the applicant shall provide evidence of an agreement with Park Township for improvements, repair and maintenance of 73rd Street that meets approval of MAPD staff.

WARREN I liked Commissioners Mitchell's suggestion and would hope that it go into a motion.

BARFIELD moves to approve the application with his change to condition #6.

Motion dies lack of second.

MOTION: To approve this application, have the applicant get with the County Engineering Office and come up with a plan to improve 73rd Street from Tyler to Ridge Road to a standard that could accept the traffic and provide the sight distances that the County Engineering Office feels appropriate.

MITCHELL moved, **HERNANDEZ** seconded the motion, and it carried (11-0)

BISHOP I have a question about the flood plan issue. I gather that is not clear in what we have so far.

MITCHELL There is a requirement that they comply with the county's Flood Plain Development Permit and that will take care of how the flood waters are handled. He has already agreed to put the berm around.

BARFIELD What is the Country Engineer going to do about this road? Have they not played any part to this point?

MITCHELL I don't believe Park Township has the engineering ability to prepare and enforce a plan that would provide the safety that I believe needs to be provided.

BARFIELD I agree with the applicant an elevated truck has a better position to see over any embankment then a passenger vehicle.

MOTION CARRIED: 11-0

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10. **Case No.: DR2003-23** – Request The City of Kechi seeks annexation of properties located adjacent to The City of Kechi, east of Hillside Road and south of 61st Street North

The City of Kechi passed Resolution No. 03-505 authorizing a public hearing on October 23rd, 2003 for the purposes of considering unilateral annexation of eligible properties located east of Hillside Road and south of 61st Street North. After review by staff, it has been concluded that the proposed annexation area located east of Hillside Road and south of 61st Street North is consistent with the Wichita-Sedgwick County Comprehensive Plan. Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 03-505 of the City of Kechi to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

BISHOP I note in materials that the staff recommendation is that the proposed annexation is consistent with the adopted Wichita-Sedgwick County Comprehensive Plan however every time we receive one of these there is a paragraph that says "Prior to unilaterally annexing property, etc. requires that a plan be prepared indicating the means by which city services will be extended to the area proposed for annexation and that the plan has not been submitted. I wonder does that mean it never is or there is a law being clouded.

SCHLEGEL The purpose in it is for you to find whether it is consistent with the Comprehensive plan you don't need to have that service plan.

BISHOP It does into play at some point but we don't need to worry about it?

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **COULTER** seconded the motion, and it carried (11-0).

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11. **Case No.: DR2003-24** – Request The City of Haysville seeks annexation of properties adjacent to The City of Haysville, east of Broadway and north and south of 71st Street.

The City of Haysville has passed Resolution No. 03-25 authorizing a public hearing on October 14, 2003 for the purposes of considering annexation of eligible properties located immediately east of Broadway and north and south of 71st Street, adjacent to the City limits. After review by staff, it has been concluded that the proposed annexation areas are substantially consistent with the Wichita-Sedgwick County Comprehensive Plan and the Comprehensive Development Plan for the City of Haysville. Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 03-25 of the City of Haysville to be substantially consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

MOTION: To approve, subject to staff comments and citing the findings in their report.

JOHNSON moved, **COULTER** seconded the motion, and it carried (11-0).

12. **Other Matters**

MARNELL Discussion about Committee assignment changes.

The Metropolitan Area Planning Department informally adjourned at 4:12 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)